

1 JAMES M. WAGSTAFFE (95535)
2 IVO LABAR (203492)
KERR & WAGSTAFFE LLP
3 100 Spear Street, Suite 1800
4 San Francisco, CA 94105-1528
Telephone: (415) 371-8500
Fax: (415) 371-0500

5 | Attorneys for Defendant
VICTOR CONTE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 SHANE D. MOSLEY, SR.,

Case No. C 08-01777 JSW

Plaintiff,

VS

VICTOR CONTE.

Defendant.

**DEFENDANT VICTOR CONTE'S
NOTICE OF MOTION AND MOTION
FOR SANCTIONS UNDER THE
COURT'S INHERENT AUTHORITY,
OR IN THE ALTERNATIVE,
ATTORNEYS' FEES PURSUANT TO
C.C.P. § 425.16(c)**

Hearing Date: December 19, 2008
Time: 9:00 a.m.
Courtroom: 2

HON. JEFFREY S. WHITE

NOTICE OF MOTION AND MOTION

TO THE COURT AND PLAINTIFF AND ITS COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on December 19, 2008 at 9:00 a.m., or as soon thereafter as the matter may be heard, in the Courtroom of the Honorable Jeffrey S. White, 450 Golden Gate Ave., Courtroom 2, San Francisco, CA, 94102, Defendant Victor Conte, will and hereby does make a motion for sanctions pursuant to the Court's inherent authority or, in the alternative, a motion for attorneys' fees pursuant to the fee shifting provisions of Code of Civil Procedure section 425.16, California's anti-SLAPP statute.

The motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities in support thereof, the Declarations of James M. Wagstaffe and Ivo Labar, the papers filed with the Court in this action, and such other written or oral argument as may be presented before the motion is considered by the Court.

DATED: August 29, 2008

Respectfully submitted,

KERR & WAGSTAFFE LLP

By /s/
IVO LABAR

Attorneys for Defendant
Victor Conte